

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of IXC
Certificate No. 5267 issued to
Pride America, Inc. for
violation of Rule 25-4.0161,
F.A.C., Regulatory Assessment
Fees; Telecommunications
Companies.

DOCKET NO. 990445-TI
ORDER NO. PSC-99-1604-PAA-TI
ISSUED: August 16, 1999

The following Commissioners participated in the disposition of
this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JULIA L. JOHNSON
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION
ORDER CANCELING INTEREXCHANGE TELECOMMUNICATIONS
CERTIFICATE INVOLUNTARILY

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service
Commission that the action discussed herein is preliminary in
nature and will become final unless a person whose interests are
substantially affected files a petition for a formal proceeding,
pursuant to Rule 25-22.029, Florida Administrative Code.

Pride America, Inc. (Pride America) currently holds
Certificate of Public Convenience and Necessity No. 5267, issued by
the Commission on December 5, 1997, authorizing the provision of
Interexchange Telecommunications service. Pride America has not
paid the regulatory assessment fees [RAF(s)] required by Section
364.336, Florida Statutes, and Rule 25-4.0161, Florida
Administrative Code, for the year 1998. Also, accrued statutory
penalties and interest charges for the years 1997 and 1998 have not
been paid. Pursuant to Section 364.336, Florida Statutes,
certificate holders must pay a minimum annual RAF of \$50 if the

DOCUMENT NUMBER-DATE

09703 AUG 16 99

FILED RECORDS/REPORTING

certificate was active during any portion of the calendar year. Pursuant to Rule 25-4.0161 (2), Florida Administrative Code, the form and applicable fees are due to the Florida Public Service Commission by January 30 of the subsequent year. All entities that apply for certification receive a copy of our rules governing Interexchange Telecommunications service. All applicants must attest that these rules have been received and understood by the applicant and an affidavit must be attached to the application in order for the application to be processed.

Pursuant to Section 350.113(4), Florida Statutes, the RAFs forms for the period of January 1 through December 31, are mailed to entities at least 45 days prior to the date that payment of the fees is due. Pride America has been given adequate opportunity to pay. On April 6, 1999, our staff received a copy of the Division of Records and Reporting's "Updated Information" request from Pride America which included note advising that the business had closed as of December 31, 1998.

Subsequently, our staff sought to contact Pride America and advised that as long as there were outstanding RAFs there would not be a recommendation for approval of a voluntary cancellation. On May 26, 1999, Ms. Nancy Rocks, a representative of Pride America, contacted staff and advised that although business had been closed, the company was winding-up in anticipation of dissolving the company, thus, she asked that the company's certificate not be canceled. Ms. Rocks advised staff that the past due amount would be paid. However, on May 28, Ms. Rocks called staff and advised that the company had opted for the cancellation of its certificate.

Pride America has not complied with Rule 25-24.474(2), Florida Administrative Code, which states:

(2) If a certificated company desires to cancel its certificate, it shall request cancellation from the Commission in writing and shall provide the following with its request:

(a) Statement of intent and date to pay Regulatory Assessment Fee.

(b) Statement of why the certificate is proposed to be cancelled.

(c) A statement on treatment of customer deposits and final bills.

(d) Proof of individual customer notice regarding discontinuance of service.

Accordingly, since the company's certificate remains active until it requests a voluntary cancellation pursuant to Rule 25-24.474(2), Florida Administrative Code, or we involuntarily cancel the certificate, Pride America is responsible for the RAFS. As of the date of this vote, Pride America continues to be in violation of our rules for non-payment of RAFS for 1998.

For the reasons described above, pursuant to Rule 25-24.474(1)(b) and (c), Florida Administrative Code, we deny Pride America's request for voluntary cancellation of Interexchange Telecommunications Certificate No. 5267 for failure to comply with the provisions of 25-24.474(2), Florida Administrative Code. However, we find it appropriate to involuntarily cancel Pride America's certificate, effective December 31, 1998, for failure to pay RAFS pursuant to Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code. Since Pride America is no longer in business, there would be no purpose in requiring Pride America to pay a fine. By involuntarily canceling Pride America's certificate, however, we would be able to track this company should it apply for another certificate with us in the future.

The cancellation of the certificate and the closing of the Docket in no way diminishes Pride America's obligation to pay applicable delinquent RAFS for 1998, and accrued statutory penalties and interest charges for 1997 and 1998.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we hereby deny Pride America, Inc.'s request for voluntary cancellation of Interexchange Telecommunications Certificate No. 5267. It is further

ORDERED that pursuant to Rule 25-24.474(1)(b) and (c), Florida Administrative Code, we hereby cancel Pride America, Inc.'s Interexchange Telecommunications Certificate No. 5267, effective December 31, 1998, for failure to comply with Rule 25-24.474(2), Florida Administrative Code; Section 364.336, Florida Statutes; and Rule 25-4.0161, Florida Administrative Code. It is further

ORDER NO. PSC-99-1604-PAA-TI
DOCKET NO. 990445-TI
PAGE 4

ORDERED that Pride America, Inc. remains obligated for all due and owing Regulatory Assessment Fees for the year 1998, as well as accrued statutory penalties and interest charges for the years 1997 and 1998. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

By ORDER of the Florida Public Service Commission, this 16th day of August, 1999.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

KMP

ORDER NO. PSC-99-1604-PAA-TI
DOCKET NO. 990445-TI
PAGE 5

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on September 6, 1999.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

FLORIDA PUBLIC SERVICE COMMISSION - RECORDS AND REPORTING

Requisition for Photocopying and Mailing

Date 8, 19, 99
 Number of Originals 5 Copies Per Original 19
 Requested By Heath

Item Presented _____
 Agenda For (Date) _____ Order No. 99-1604 In Docket No. 99045
 Notice of _____ For (Date) _____ In Docket No. _____
 Other _____

Special Handling Instructions

Distribution/Mailing

Number	Distributed/Mailed To	Number	Distribution/Mailed To
<u>19</u>	<u>Commission Offices</u>		
<u>2</u>	<u>Docket Mailing List - Mailed</u>		
	<u>Docket Mailing List - Faxed</u>		

Note: Items must be mailed and/or returned within one working day after issue unless specified here:

Print Shop Verification

Job Number 204 Verified By Michael
 Date and Time Completed 8/19 Job Checked For Correctness and Quality (Initial) C

Mail Room Verification

Date Mailed _____ Verified By _____

M E M O R A N D U M

August 10th, 1999

RECEIVED-FPSC
99 AUG 16 AM 11:09
RECORDS AND REPORTING

TO: DIVISION OF RECORDS AND REPORTING
FROM: DIVISION OF LEGAL SERVICES (PEÑA) *vmp CB*
RE: DOCKET NO. 990445-TI - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF IXC CERTIFICATE NO. 5267 ISSUED TO PRIDE AMERICA, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES

1604-PAA

Attached is a NOTICE OF PROPOSED AGENCY ACTION ORDER CANCELING INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATE INVOLUNTARILY to be issued in the above-referenced docket. (Number of pages in order - 5)

KMP/anc
Attachment
cc: Division of Communications
I: 990445XI.kmp

See 34

faxed to TIS - 10

2/0

4:31